

IN FEDERAL DISTRICT COURT
SOUTH DAKOTA DISTRICT

Bruce Danielson
Plaintiff

v.
Defendants,

Mike Huether,
David Pfeifle,
Marty Jackley,
Heather Hitterdal,
City of Sioux Falls,
State of South Dakota,
John Doe

Complaint

18-cv-4039

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1. Bruce Danielson, as Plaintiff, claims against each of the named individuals both in their official capacity as employees, agents or elected officials of the City of Sioux Falls and State of South Dakota and in their individual capacity.
 2. Mike Huether was the Mayor of the City of Sioux Falls at the time of these events. David Pfeifle was City Attorney for the City of Sioux Falls at the time of these events. Marty Jackley was the Attorney General for the State of South Dakota at the time of the events. Heather Hitterdal was an employee of the City of Sioux Falls. John Doe represents those parties whose identities are unknown to Plaintiff.
 3. Plaintiff requests attorney fees, costs and compensatory damages from all parties, punitive damages from the individuals.
 4. Injunctive relief against the City of Sioux Falls is requested.

JURISDICTION AND LAW

5. Plaintiff seeks redress under 42 USC 1983 (civil rights violations under color of law). Plaintiff alleges violations of Plaintiff's federal constitutional rights under Article

VI clause 2 (Supremacy), the First Amendment, the Second Amendment, the Fourth Amendment, the Fifth Amendment and the Fourteenth Amendment.

6. That the constitutional violations are enforced directly or through the Fourteenth Amendment.

7. Plaintiff alleges additional violations of federal laws and rights under color of law each of which violations is an intentional and unreasonable act.

8. Plaintiff alleges a pattern and practice of violations of federal law and constitutional rights.

9. Defendant City of Sioux Falls [City] and State of South Dakota [State] has accepted multiple federal grants which have required that the Mayor or his representative certify compliance with federal, state and local law as condition of receiving the grant. These repeated certifications have created a reasonable expectation that the City of Sioux Falls would abide by federal, state and local law. These repeated certifications have created a compliance obligation against the City of Sioux Falls.

10. State law torts include assault, personal injury, intentional infliction of emotional distress, invasion of privacy and others.

11. Jurisdiction is per Article III, Section 1 and 28 USC 1331(federal question), 1332 (amount in controversy), 1337 (regulation of commerce), 1339 (postal matters), 1343 (civil rights)(3),(4), 2201 (injunctive relief), 2202 (further relief).

12. Venue is per 28 USC 1391(b).

13. Plaintiff requests trial by jury for compensatory, special, punitive, other damages and any other issues allowed by law.

14. Plaintiff requests treble damages pursuant to the civil recovery provisions of 18 USC Chapter 96.

15. Plaintiff alleges that the enumeration of constitutional and legal violations by the City of Sioux Falls documented herein, and the refusal of employees of the State of South Dakota to investigate the violations establishes a pattern and practice of violative conduct against himself and others by officials and employees of the City of Sioux Falls and the State of South Dakota.

16. That the City of Sioux Falls and the State of South Dakota through its attorneys, officials and other employees has conspired to and has used and abused process of law with malice toward Plaintiff for among other reasons his assertion of rights guaranteed

under federal law, the US Constitution, State of South Dakota law and the State of South Dakota constitution.

17. That various City and State officials including others who were or should have been aware of the violative behavior and abstained from exercising their supervisory authority to halt the violative conduct.

18. Plaintiff incorporates each and every allegation and averment contained in the various sections of this Complaint as if those allegations and averments were fully set forth in every other section.

19. Plaintiff's reference to an official or employee of a public entity includes elected and appointed officials, employees, agents, contractors, sub-contractors or receiving remuneration to act on behalf of or for the public entity.

PARTIES

20. Plaintiff, Bruce Danielson [Plaintiff, Danielson], is a citizen and resident of the City of Sioux Falls, County of Minnehaha, State of South Dakota, United States of America.

21. At all times referred to herein, the City of Sioux Falls [City], refers to the City of Sioux Falls, County of Minnehaha, State of South Dakota, United States of America.

22. At all times referred to herein, the State of South Dakota[State], refers to the State of South Dakota, United States of America.

23. At all times referred to herein and between the date of May 17, 2010 and the present time of filing this complaint Defendant Mike Huether [hereinafter Huether or Mayor] was the elected Mayor of the City of Sioux Falls and at all times between those dates was acting in such capacity as an elected official of the City of Sioux Falls. That he was the maker of official executive policy and was consequently acting pursuant to either official policy or the custom and practice of the State of South Dakota or the City of Sioux Falls and was acting under color of law.

24. At all times referred to herein, Defendant David Pfeifle [hereinafter Pfeifle or City Attorney] was the City Attorney for the City of Sioux Falls and at all times herein was acting in such capacity as an agent, servant, and employee of the City of Sioux Falls, and was acting under the direction and control of the Mayor of the City of Sioux Falls, and was acting pursuant to either official policy or the custom and practice of the State of South Dakota or the City of Sioux Falls and was acting under color of law.

25. At all times referred to herein, Defendant Marty Jackley [hereinafter Jackley or Attorney General] was the Attorney General for the State of South Dakota and at all times herein was acting in such capacity as an agent, servant, and employee of the State of South Dakota and that he was the maker of official executive policy regarding state police (Division of Criminal Investigation or DCI) matters, and was acting pursuant to either official policy or the custom and practice of the State of South Dakota or the City of Sioux Falls and was acting under color of law.

26. At all times referred to herein, Defendant Heather Hitterdal [hereinafter Hitterdal] was a City of Sioux Falls employee and at all times herein was acting in such capacity as an agent, servant, and employee of the City of Sioux Falls, and was acting under the direction and control of the Mayor, and was acting pursuant to either official policy or the custom and practice of the State of South Dakota or the City of Sioux Falls and was acting under color of law.

27. That at all times referred to herein, the named employees and elected officials of the City of Sioux Falls and State of South Dakota including Huether, Pfeifle, Hitterdal, Jackley, Doe and others named and not named herein acted under color of the laws, statutes, ordinances, regulations, policies, customs and usages of the State of South Dakota or the City of Sioux Falls and pursuant to their respective official status and authority as identified herein.

28. The City of Sioux Falls has consented to suit to the limits established by statute.

29. The State of South Dakota has consented to suit to the limits established by statute.

BACKGROUND AND EVENTS

30. Plaintiff Bruce Danielson has advocated for open government and public access to government information for more than 50 years in the State of South Dakota.

31. Scott Ehrisman has operated a blog www.southdacola.com and through the blog has advocated for open government for more than eleven years.

32. Danielson contributes articles, information, and other facts he obtains for publication on www.southdacola.com. Danielson also creates videos of public events and contributes those facts to the blog and other groups advocating for open government.

33. On Tuesday afternoon, April 14th, 2015, in the Carnegie Town Hall meeting room during or about the time scheduled for the City of Sioux Falls Informational Meeting, the Plaintiff was physically struck in the head by the Mayor severe enough to cause damage

to his teeth and other structures of his head and neck. Plaintiff was in the meeting room attending a public presentation. After completion of the Mayor's presentation the Mayor and his entourage exited the room using an aisle behind Danielson's chair. It is alleged that Mayor Heuther struck Danielson in the back of the head damaging his head and dental structures.

34. It is alleged that hitting Danielson in the head constituted assault in the meaning of SDCL 22-18-1.

35. It is alleged that the attack by the Mayor was in retaliation for Danielson exercising his constitutional and statutory rights and was intended to intimidate Danielson into stopping his investigative, fact gathering and publicizing activities.

36. On or about April 15, 2015 Danielson contacted City Council members to request retention of all video and other evidence which would document or shed light on the events and facilitate identification of other witnesses to events which occurred during the April 14th, 2015 meeting where he was struck.

37. Concluding that the City had instituted a pattern and practice of violating rights secured by the constitution and federal law, and intended to continue those violations, on or about April 24th, 2015 Danielson filed a formal criminal complaint alleging assault and other criminal acts by Mayor Heuther with the State of South Dakota Division of Criminal Investigation.

38. Jim Severson, an agent with the South Dakota Division of Criminal Investigations (DCI), was assigned to investigate the complaint and started to interview City of Sioux Falls officials and employees who he thought would have relevant information.

39. At a time unknown, the conspirators communicated with Marty Jackley and requested that Marty Jackley use his authority as South Dakota Attorney General and his supervisory authority over DCI agents to suppress investigation of the alleged incident of assaulting Danielson and Ehrisman on April 14th, 2015.

40. At a time unknown Marty Jackley did act as requested by his co-conspirators to suppress the investigation of Danielson's claim of assault by the Mayor.

41. The witnesses who Danielson proposed could support his version of events surrounding the assault have not, to date, been contacted or interviewed by DCI.

42. On or about July 10th, 2015 Bruce Danielson was informed by DCI agent Jim Severson that he had been instructed to stop the investigation of Danielson's complaint.

43. Danielson further alleges he was told that Marty Jackley issued instructions to stop the investigation before the investigation could solidify evidence establishing that the assault occurred or that Huether committed the assault.

44. Danielson alleges that Marty Jackley intended to, and did, obstruct justice when acting to halt the investigation of the alleged assault on Danielson by Huether.

45. The acts of Jackley in suppressing investigation of Danielson's complaints were administrative acts.

46. Danielson was told by a DCI agent that video recordings which might have contributed information to the investigation of the alleged events had disappeared prior to their normal expiration dates.

47. Danielson was told by DCI agent Jim Severson that City of Sioux Falls officials and employees apparently acting on the instructions of its Mayor, attorneys, employees and others had failed to preserve, and had in fact stood by and allowed, video and other evidence documenting the alleged assault to be destroyed.

48. Danielson alleges that the actions of the parties destroying the evidence of the assault were violations of his constitutional, statutory, due process and other rights and were intended to obstruct justice.

49. On or about September 24th, 2015 Danielson filed an SDCL 3-21 notice with the City of Sioux Falls and thereby again requested retention of all video and other evidence which would document or shed light on the events and facilitate identification of other witnesses to events which occurred during the April 14th, 2015 meeting where he was physically assaulted.

50. Scott Ehrisman, a vocal citizen activist, frequently attends City of Sioux Falls public meetings to collect information he uses on his blog www.southdacola.com.

51. The Mayor has publicly and frequently referenced Ehrisman's blog and criticized the content and the citizen activists operating and contributing to the blog.

52. Scott Ehrisman pays for the costs of his blog and relies on advertising revenue and indirectly user view counts to help pay for the blog. The blog is viewed by people within and without the state of South Dakota.

53. It is alleged that a reduction in viewership of Ehrisman's blog would result if Ehrisman was unable to attend public meetings and collect and post facts. That reduction in viewership would damage Ehrisman's ability to afford to operate the blog.

54. Danielson witnessed that after he was hit in the head, and as the Mayor walked beyond Danielson toward the exit, that the Mayor traveled toward Ehrisman and kicked out sideways to the Mayor's right side and struck the chair leg of the chair Scott Ehrisman was sitting in.

55. It is alleged that kicking the chair occupied by Scott Ehrisman constituted assault in the meaning of SDCL 22-18-1.

56. It is alleged that these actions toward Ehrisman were intended to intimidate and harass Ehrisman under color of law and to among other things suppress Ehrisman's First, Fifth and Fourteenth Amendment rights.

57. It is alleged that Mayor Huether made plans to exit the meeting on April 14th, 2018 by the aisle to the rear of the chairs Danielson and Ehrisman were occupying as opposed to the more commonly used and wider aisle to the front of the chamber. It is alleged that this choice of exits indicated preparation, planning, absence of mistake and lack of accident.

58. It is alleged that Heather Hitterdal witnessed the assaults of April 14, 2015 and took no action to report the assault or to preserve the evidence of the assault.

59. On or about January 9th during the public comment portion of the City of Sioux Falls City Council meeting Tim Stanga did a presentation on the City bidding and contracting practices. The presentation implied that the practices were to conceal corruption.

60. On or about January 9th, 2012 Mayor Heuther, after a meeting of the City Council, entered the personal space of Tim Stanga and made aggressive physical gestures and was verbally abusive.

61. It is alleged that these actions toward Stanga constituted simple assault in the meaning of SDCL 22-18-1.

62. It is alleged that these actions toward Stanga were intended to intimidate and harass Stanga under color of law and among other things to suppress Stanga's First, Fifth and Fourteenth Amendment rights.

63. It is alleged that Mayor Huether positioned himself on a path which he anticipated that Stanga would use to exit the meeting on January 10th, 2012. It is alleged that Huether's actions thereby indicated preparation, planning, absence of mistake and lack of accident.

64. On or about January 17th, 2012 I.L. Weidermann addressed the City Council and stated he witnessed the attempt by the Mayor to intimidate Stanga and complained about the Mayor's attempts to intimidate and provoke Tim Stanga in the presence of I.L. Weidermann.

65. Tom Hein accidentally discovered that false and misleading real estate deeds had been filed the Minnehaha County Register of Deeds which transferred some of his property to another entity in support of a public works project.

66. Tom Hein employed a property rights attorney and obtained reversal of the false and misleading deeds.

67. Tom Hein's negotiations to obtain just compensation for the property sought for the public works projects were blamed by some developers for delaying development projects.

68. Tom Hein received threatening communications demanding he drop his requests for just compensation.

69. On or about August 11, 2016 Mayor Huether traveled to the place of employment of Tom Hein. Upon seeing Mr. Hein, Mayor Huether entered the personal space of Tom Hein, committed battery upon Mr. Hein and then verbally assaulted him including threats that if he did not sign over property to a third party that he would "squash you like a fly".

70. It is alleged that these actions toward Hein constituted simple assault in the meaning of SDCL 22-18-1.

71. It is alleged that these actions toward Hein were intended to intimidate and harass Hein under color of law to suppress Hein's First, Fifth and Fourteenth Amendment rights.

72. It is alleged that these actions by Huether violated 18 USC 1951.

73. It is alleged that Mayor Huether traveled to meet Hein and thereby indicated his intent to confront Hein and thereby indicated preparation, planning, absence of mistake and lack of accident.

74. It is alleged that City employees including code enforcement employees and other public officials have learned that they may silence critics by setting up citizens for a felony prosecution under South Dakota's asymmetric assault laws particularly SDCL 22-18-1.05. The preferred plan to accomplish this appears to be to get into the target's personal space and be physically and verbally aggressive and threatening in the hopes that the target instinctively responds by hitting back and can then be charged with felony

assault. Another strategy to provoke a confrontation is too openly trespass on private property.

75. It is a policy, as evidenced by history, that the various law enforcement agencies such as the Sioux Falls police department and the South Dakota DCI will bystand and not investigate and not pursue prosecution of public officials and employees who assault citizens.

76. On or about June 16th, 2015 during a session of the Sioux Falls City Council, Kenny Anderson Jr., a City Council member was struck on the back of the head by Mayor Huether. The assault was apparently due to the Mayor being upset that Councilor Anderson acting as chair was not controlling the other Council members the way the Mayor was demanding.

77. Danielson was independently recording the meeting where the Kenny Anderson assault occurred. After the close of the meeting City Council members contacted Danielson to find out if a video of the incident was available from him. Unfortunately, his equipment had run out of battery power and stopped the recording before the assault event.

78. Persons unknown subsequently edited the City of Sioux Falls video of the City Council meeting on June 16th, 2015 to conceal the assault.

79. The altered video, concealing the Mayor's actions, was subsequently made available on the City of Sioux Falls distribution website by persons unknown for distribution via the wires.

80. On or about November 10th, 2015 Danielson exercised his right to speak during the public comment portion of the City Council meeting and spoke regarding the altered North Phillips Land Sale Documents. Immediately following the meeting when Danielson approached his vehicle, Mayor Heuther was standing immediately adjacent to his car in a location he would have to pass by to get in his vehicle. The Mayor's vehicle was nowhere nearby. Danielson believed the Mayor's presence, actions and demeanor were an attempt to intimidate him to not use his speech rights and an attempt to provoke a situation the Mayor could use to criminally prosecute Danielson. Danielson was accompanied by a disabled person which increased his anxiety by exposing the disabled person to the Mayor's behavior.

81. On or about January 19th, 2016 Danielson exercised his right to speak during the public comment portion of the City Council meeting and spoke regarding American government and democracy, the car rental customer use charge and a perceived Executive Session infraction. Immediately following the meeting when Danielson approached his vehicle Mayor Heuther was standing immediately adjacent to his car in a location he

would have to pass by to get in his vehicle. The Mayor's vehicle was nowhere nearby. Danielson believed the Mayor's presence, actions and demeanor were an attempt to intimidate him to not use his speech rights and an attempt to provoke a situation the Mayor could use to criminally prosecute Danielson. Danielson was accompanied by a disabled person which increased his anxiety by exposing the disabled person to the Mayor's behavior.

82. On or about July 19th, 2016 Danielson exercised his right to speak during the public comment portion of the City Council meeting and spoke regarding code enforcement, citizen interest in city government, a newspaper story about South Dakota Public Assurance Alliance and an alleged assault. Immediately following the meeting when Danielson approached his vehicle Mayor Huether was standing immediately adjacent to his car in a location he would have to pass by to get in his vehicle. The Mayor's vehicle was nowhere nearby. Danielson believed the Mayor's presence, actions and demeanor were an attempt to intimidate him to not use his speech rights and an attempt to provoke a situation the Mayor could use to criminally prosecute Danielson. Danielson was accompanied by a disabled person which increased his anxiety by exposing the disabled person to the Mayor's behavior.

83. On or about December 5th, 2017 Danielson exercised his right to speak during the public comment portion of the City Council meeting and spoke regarding trusting government officials. Immediately following the meeting when Danielson noted that the Mayor was standing by his vehicle presumably to provoke a confrontation. Danielson contacted City Council security staff and requested an escort to his vehicle. City Council security agreed to accompany him. As Danielson and the security person approached his vehicle the Mayor left and went to his own vehicle. Danielson believed the Mayor's presence, actions and demeanor were an attempt to intimidate him to not use his speech rights and an attempt to provoke a situation the Mayor could use to criminally prosecute Danielson.

84. It is alleged that Mayor Huether positioned himself on a path which he anticipated that Danielson would use to exit the meeting on November 10th, 2015, January 19th, 2016, July 19th, 2016 and December 5th, 2017 was not on the path to his own vehicle. It is alleged that the positioning by Huether thereby displayed his intent to confront Danielson indicating preparation, planning, absence of mistake and lack of accident.

85. Mayor Huether has stalked Danielson, Stanga and Hein within the meaning of SDCL 22-19A-1.

86. Mayor Huether's actions toward Danielson were intended to and did intentionally inflict emotional distress and were intended to and did invade his privacy.

87. During public equalization board meetings for 2016 chaired by Mayor Heuther, Mayor Heuther publicly stated that he had a plan to get even with Bruce Danielson.

88. In February of 2014, Danielson contacted the South Dakota Attorney General's office and requested assistance enforcing South Dakota law prohibiting a governmental entity from advocating a side in an election issue.

89. The South Dakota Attorney General's office declined to intervene in the election advocacy issue asserting that Attorney General Jackley had concluded that the State of South Dakota lacked the authority to intervene in the affairs of a home rule charter City.

90. On March 28th, 2014, the Ethics Board held a hearing regarding a complaint filed by Danielson. The complaint was rejected on procedural grounds. Danielson refiled a corrected complaint the same day. The complaint asserted that the behavior of Mayor Heuther was unlawful election issue advocacy and that the Mayor was using City resources for reelection campaigning.

91. On or about April 23rd, 2014, the Ethics Board held a hearing on the Danielson ethics complaint regarding the Mayor unlawfully using City resources to support his reelection.

92. South Dakota legislator Patrick Kirschman introduced three bills (HB-1194,1195,1196) into the 2016 South Dakota legislative session which would have explicitly authorized the State to intervene to enforce laws dealing with a home rule charter city.

93. The advocacy of the South Dakota Municipal League (Pfeifle's current employer) successfully advocated to block the bills introduced to explicitly authorize state intervention to enforce state laws against a home rule charter city.

94. City Attorney has taken the position that the charter makes no provision for the City Attorney to enforce state law or provisions of the home rule charters against City actors such as the Mayor in a home rule charter city. The Attorney General has taken the position that the Attorney General and the County based State's Attorneys lack the authority to intervene to enforce state law or provisions of the home rule charter against City actors in a home rule charter City. This abstention from prosecution has created a "wild west" or "open season" for public corruption.

95. In an apparent attempt to prevent Bruce Danielson from appearing before the July 15th, 2014 meeting of the City Council and testifying as an expert on metal forming, regarding a dispute on the siding for the new \$100+million event center, the conspirators arranged to have him arrested and jailed on specious charges.

96. On September 26th, 2014 Danielson was acquitted of all the specious charges he was arrested for on July 15th, 2014.

97. Danielson's arrest on July 15th, 2014 was a violation of 18 USC 1951 and was intended to and did impact the resources he had to run his business in interstate commerce.

98. At a time unknown, Huether, Hitterdal and Pfeifle established a policy of refusing to allow Ehrisman, or Danielson who frequently acted as an assistant to Ehrisman to be treated as media and receive the same treatment as other media when they were collecting information for the blog www.southdacula.com.

99. The City, at the direction of and with the awareness of Huether, established a policy of refusing to allow people collecting information for www.southdacula.com to be treated in the same way as more conventional media. This policy was a violation of the First Amendment rights of those persons including Ehrisman and Danielson.

100. Among the rights Danielson, Ehrisman and others were deprived was the right to be notified of press releases by the City and employees of the City, access to special locations for photographing and recording, and freedom from being verbally insulted and assaulted when asking questions during public media events. These acts were all in violation of their first amendment rights.

101. The First Amendment rights of Ehrisman and Danielson were violated by being treated different than other media on or about March 5th, 2013; August 4th, 2014; September 26th, 2014; March 30th, 2015; June 13th, 2015; July 15th, 2015; August 6th, 2015; August 31st, 2015; June 28th, 2016; September 30th, 2016; January 6th, 2018.

102. Various City employees have communicated to Danielson that his activities do not meet the criteria for being a media organization. These same various City employees have refused to provide the criteria or legal basis the City uses to determine what is considered a media organization.

103. Mayor Huether has specifically refused to answer questions from persons asking on behalf of www.southdacula.com or the website www.siouxfall.org claiming that those organizations do not meet the criteria for a media organization and he is only taking questions from media organizations.

104. On or about July 9th, 2015, Danielson used the City of Sioux Falls web request page to request the daily updates and other notifications such as press conferences normally provided to members of the media.

105. On or about September 4th, 2015 Danielson was removed from receiving the daily other notifications such as press releases and press conferences.

106. On or about September 4th, 2015 Danielson was told that he could not receive other notifications such as press releases because the City Attorney Pfeifle had determined he did not represent a media organization.

107. Danielson alleges that the actions of the Mayor and his business co-conspirators were intended to suppress his first amendment rights, deprive him of property rights and due process rights in an effort to further the business interests of the Mayor and his co-conspirators.

108. The Mayor and his business co-conspirators operated a scheme to obtain preferential investment opportunities by using and abusing the Mayor's color of law powers and executive authority over a multiyear period.

109. That during the time of the events described herein the Mayor and various business co-conspirators benefited from business transactions which depended on official actions by various officials and employees of the City of Sioux Falls government. In other words a business venture desiring to increase the viability of the venture could bring in a member of the Mayor's family or a person at his direction and be reasonably assured of receiving profitable concessions from the City of Sioux Falls.

110. That the Mayor and various business co-conspirators intended to and did disadvantage businesses who did not participate financially with members of the Mayor's family or otherwise benefit the Mayor thereby depriving businesses of the right to make commercial decisions free from wrongful coercion regarding ownership and profit distribution. This type of scheme is commonly called a "pay to play" scheme.

111. The political viability of the required official actions by the legislative members of the City Council for the City of Sioux Falls declined when the Mayor's personal benefit or other suspected details of the concessions and the beneficiaries of the concessions being granted by the City of Sioux Falls became public.

112. A business transaction benefiting the Mayor included an investment by one of the Mayor's family members in a project receiving special tax relief status from the City of Sioux Falls.

113. In an attempt to maintain the political viability of the special City actions believed to be necessary for the businesses of the Mayor and his business co-conspirators to meet targeted profitability, criminal acts including the various specified criminal acts identified herein were undertaken.

114. At least some of those specified criminal acts were directed at Plaintiff Danielson.

115. Danielson operates a business in interstate commerce providing IT consultation.

116. Danielson was injured in his business and property by reason of Huether's and his business co-conspirators criminal actions including the arrests, threats and assaults to protect and further Huether's business conspiracy to obtain favorable investment opportunities.

117. During Mayor Huether's tenure Danielson worked to research and publicize the suspected links to the benefits the Mayor's family were believed to be receiving from some of these business activities.

118. Maintaining the political viability of the special concessions from the City of Sioux Falls was important to maintaining the financial viability of the Mayor's various business ventures.

119. Maintaining the political viability of the special concessions from the City of Sioux Falls was important to maintaining the flow of new business offers which would further enhance the Mayor's various business ventures.

120. That the City of Sioux Falls intentionally mis-characterized Insurance Auto Auctions as a vehicle parking facility instead of an auto salvage operation, despite determination of a Court that it was an auto salvage operation, thereby ensuring that the real estate owner benefited.

121. During the Mayor's tenure the Mayor sought to use his color of law powers to punish Danielson for exercising his First Amendment rights with respect to researching and publicizing the suspected links to the business activities of the Mayor and his business co-conspirators receiving City largesse.

122. That the Mayor's various threats to Danielson and Ehrisman were an attempt to unlawfully interfere with their property rights including their rights to observe and publicize the events at various public meetings.

123. That Huether's various threats to Hein were an attempt to unlawfully interfere with Hein's property rights including his right to seek compensation for property takings.

124. That the acts of Huether and his business conspirators were intended to unlawfully and did unlawfully interfere with interstate commerce in violation of 18 USC 1951. The threats were intended to deprive the www.southdacula.com blog of content and advertising revenue to pay its expenses. The threats were intended to cause Danielson to deplete assets of his business in interstate commerce to defend himself against the various

color of law attacks including arrests, threats, intimidation and assaults. Danielson's business assets were depleted by having to be absent from his business due to the broken tooth and by having to redirect scarce financial assets to having his jaw and tooth repaired.

125. City employees had a pattern and practice of producing otherwise discoverable key case documents only after discovery closed and a case was in the adjudication phase (trial/hearing).

126. The City practice of withholding documents was intended to, and did, deprive opponents of the City actions supporting the Mayor and the Mayor's business co-conspirators, of due process.

127. The City practice of withholding otherwise discoverable documents was intended to, and did, deprive the party opposing the City actions supporting the Mayor and the Mayor's business co-conspirators of the opportunity to use discovery to prepare counter arguments to rebut the document, to contest the veracity of the document contents, to explore the documents actual versus purported creation date and to perform other lawful tests of the document and its contents. In other words the City could produce backdated fake documents with no electronic audit trail which supported their case after discovery closed.

128. The City withheld a key otherwise discoverable document in the matter of the Zoning Adjustment Board BOA-003178-2015 Appeal of a Zoning Manger's Decision that Off Premise Sign Permit Numbers 18000787, 790, 791 had expired.

129. The City withheld a key otherwise discoverable document in the matter of Save Our Neighborhood v City of Sioux Falls ;2014 SD 35.

130. The City uses the United States Postal Service to deliver notices of judicial and quasi-judicial hearings including for the two matters listed herein.

131. The City uses email and other wire facilities of interstate commerce to communicate among itself and other litigants involved in judicial and quasi-judicial hearings including the two matters listed herein.

132. Withholding documents requested and discoverable in judicial or quasi-judicial adjudication hearings is mail fraud within the meaning of 18 USC 1341.

133. Withholding documents requested and discoverable in judicial or quasi-judicial adjudication hearings is wire fraud within the meaning of 18 USC1343.

134. That civil redress for the grievances related to the business ventures of the Mayor and his business co-conspirators is sought pursuant to the civil recovery provisions of 18 USC Chapter 96.

WELL ESTABLISHED LAW

135. That at all relevant times the law was well established that persons had the right, as a result of open meeting laws and other authority, to attend public City Council events including informational sessions and other meetings.

136. That at all relevant times the law was established that use of improper means under color of law such as verbal intimidation or physical intimidation or assaulting citizens to attempt to suppress their attendance at, or control their lawful actions at a public meeting was a violation of the First Amendment.

137. That at all relevant times the law was well established that planning to or conspiring to provoke citizens into felonious assault by assaulting citizens under color of law was a statutory violation, a due process violation and a constitutional violation.

138. That at all relevant times the law was well established that bystanding and failing to take action to prevent constitutional violations by a public official or employee in a position to stop the violation was a constitutional violation.

139. That the Mayor of the City of Sioux Falls is the ultimate executive branch policy maker or controls the ultimate policy maker with respect to the City of Sioux Falls policies at issues.

140. That the Attorney General of the State of South Dakota is the ultimate executive branch policy maker or controls the ultimate policy maker with respect to the DCI.

141. That at all relevant times the law was well established that persons had the right to seek fair compensation for any of their property being seized by government action.

AWARENESS OF VIOLATIVE ACTIVITY

142. That the numerous public allegations of deprivation of rights and complaints that the Mayor was assaulting persons put the City of Sioux Falls and State of South Dakota on notice regarding such violations.

143. That the City of Sioux Falls and various employees retaliated against Plaintiff by requiring that Plaintiff conform to a higher standard of conduct than other persons.

144. That the City of Sioux Falls and various employees engaged in selective enforcement and interpretation.

FIRST AMENDMENT RIGHTS

145. It is well established law that it is a first amendment right to petition the government for a redress of grievances; and to serve as a truthful witness in a lawful court; and to encourage others to petition for a redress of their grievances; and to encourage others to serve as a truthful witness before a lawful court.

146. "It is well-established that a public official's retaliation against an individual exercising his or her First Amendment rights is a violation of § 1983." See Pendelton v St Louis County; 98-2691 8th Circuit.

147. It is well established law that "an act in retaliation for the exercise of a constitutionally protected right is actionable under Section 1983 even if the act, when taken for a different reason, would have been proper" See Freeman v Blair; 85-5169; 8th Circuit.

TORTS

148. The following describe some of the torts intentionally perpetrated on Plaintiff by various of the Defendants in the course of the various acts and conspiracies.

149. That the Mayor of the City of Sioux Falls and other subordinates to the Mayor with supervisory responsibilities have effectively abrogated the power to select, train, supervise, discipline and control the employees of the City of Sioux Falls by failing to act in the face of numerous transgressions of which the City was notified about, knew or should have known.

150. That on multiple occasions the Plaintiff Bruce Danielson filed a Notice of Harm with the City and thereby placed the City on official notice of the constitutional and other violations.

151. That the failure of the Mayor of the City of Sioux Falls and other subordinates to the Mayor with supervisory responsibilities to act in the face of constitutional deprivations, torts and other violations of law herein described caused the deprivations that have been suffered by the Plaintiff.

152. That the failure of the Mayor of the City of Sioux Falls and other subordinates to the Mayor with supervisory responsibilities to act in the face of transgressions about

which they knew or should have known establishes a policy or custom that the City of Sioux Falls will condone or otherwise tolerate constitutionally violative conduct in general and in specific the constitutionally violative conduct outlined in this Complaint.

153. That had the Mayor of the City of Sioux Falls and other subordinates to the Mayor with supervisory responsibilities affirmatively acted to properly select, or to properly train or to properly supervise or to properly discipline the employees mentioned herein when said employees conducted themselves in constitutionally violative ways, the constitutional deprivations of the Plaintiff would not have occurred.

154. That by their failures as described herein, the Mayor of the City of Sioux Falls and other subordinates to the Mayor with supervisory responsibilities intentionally disregarded known facts or alternatively were deliberately indifferent to a risk of constitutional violation of which they knew or should have known and that their culpability caused the constitutional violations to the Plaintiff.

155. That the City has obtained multiple federal grants requiring that the City certify compliance with all federal, state and local laws.

156. That the City has certified to various federal agencies on multiple occasions to be in compliance with the terms and conditions of said federal grants.

157. That certification by the City to the federal government that it was in compliance with all federal, state and local laws created a reasonable expectation that the City of Sioux Falls would abide by federal, state and local law.

158. As a direct and proximate result of the policies, customs, practices and usages which the Mayor and other executive officials allowed, promulgated, and did not prevent, the Plaintiff suffered significant injuries.

DAMAGES

159. That the Defendants City of Sioux Falls and State of South Dakota are liable for compensatory damages and attorney's fees.

160. That the individual Defendants including Huether, Jackley, Hitterdal, Pfeifle and Doe are jointly and severally liable for compensatory damages, costs and attorney's fees in their official and individual capacities.

161. The acts of the individual Defendants as described herein were wanton, malicious and oppressive thus entitling the Plaintiff to an award of punitive damages against them in their individual capacities in amounts found to be fair and appropriate under the circumstances.

162. Plaintiff Danielson has suffered special damages in connection with the deprivation of his constitutional and statutory rights.

163. Wherefore, the Plaintiff prays for judgment against Defendants jointly and severally for compensatory damages in the amount of \$100,000 plus costs of the action, attorney's fees, punitive damages as appropriate and such other relief as the Court deems fair and appropriate under the circumstances.

164. Wherefore, the Plaintiff prays for judgment against the Defendants jointly for treble damages pursuant to the civil recovery provisions of 18 USC Chapter 96.

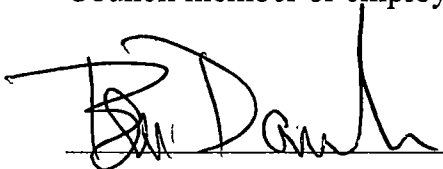
165. Plaintiff requests an injunction prohibiting employees of the City and State from assaulting or bystanding during further assaults or other abuses of color of law powers against Plaintiff.

166. Plaintiff requests an order requiring the City to establish, operate and enforce a system by where City employees are required, as a condition of employment, to report transgressions of other employees to a law enforcement agency with jurisdiction in the matter.

167. Plaintiff requests an order requiring the City to establish, operate and enforce a disciplinary system which meaningfully enforces the requirement to report transgressions of other employees.

168. Plaintiff requests an order requiring the City to establish, operate and enforce a policy of terminating employees who commit or conspire to commit criminal acts using City resources or color of law powers.

169. Plaintiff requests an order requiring the City to establish, operate and enforce a meaningful disciplinary policy prohibiting retaliation against an employee or other person who alleges a subjectively reasonable allegation that a City official or the Mayor or a City Council member or employee is violating any law.



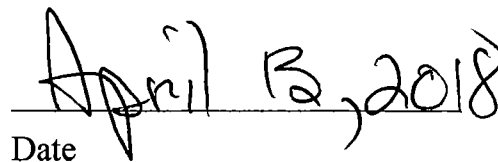
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Date

South Dakota Statutes

22-18-1. Simple assault--Misdemeanor--Felony for subsequent offenses. Any person who:

- (1) Attempts to cause bodily injury to another and has the actual ability to cause the injury;
- (2) Recklessly causes bodily injury to another;
- (3) Negligently causes bodily injury to another with a dangerous weapon;
- (4) Attempts by physical menace or credible threat to put another in fear of imminent bodily harm, with or without the actual ability to harm the other person; or
- (5) Intentionally causes bodily injury to another which does not result in serious bodily injury;

is guilty of simple assault. Simple assault is a Class 1 misdemeanor. However, if the defendant has been convicted of, or entered a plea of guilty to, two or more violations of § 22-18-1, 22-18-1.1, 22-18-26, or 22-18-29 within ten years of committing the current offense, the defendant is guilty of a Class 6 felony for any third or subsequent offense.

Source: SDC 1939, §§ 13.2401, 13.2403; SDCL § 22-18-8; SL 1973, ch 147; SL 1976, ch 158, § 18-1; SL 1980, ch 173, § 2; SL 1981, ch 174; SL 1998, ch 132, § 1; SL 1999, ch 117, § 1; SL 2005, ch 120, § 1; SL 2011, ch 115, § 1.

22-18-1.05. Simple or aggravated assault against law enforcement officer, Department of Corrections employee or person under contract, or other public officer. Simple assault, as provided in § 22-18-1, if committed against a law enforcement officer, Department of Corrections employee or person under contract assigned to the Department of Corrections, or other public officer, which assault occurred while such officer or employee was engaged in the performance of the officer's or employee's duties, is a Class 6 felony.

Aggravated assault, as provided in § 22-18-1.1, if committed against a law enforcement officer, Department of Corrections employee or person under contract assigned to the Department of Corrections, or other public officer, which assault occurred while such officer or employee was engaged in the performance of the officer's or employee's duties, is a Class 2 felony.

Source: SL 2005, ch 120, § 3.

22-19A-1. Stalking as a misdemeanor--Second offense a felony. No person may:

- (1) Willfully, maliciously, and repeatedly follow or harass another person;
- (2) Make a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or
- (3) Willfully, maliciously, and repeatedly harass another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.

A violation of this section constitutes the crime of stalking. Stalking is a Class 1 misdemeanor. However, any second or subsequent conviction occurring within ten years of a prior conviction under this section is a Class 6 felony.

Source: SL 1992, ch 162, § 1; SL 1993, ch 176, § 1; SL 1997, ch 132, § 1; SL 2001, ch 112, § 1; SL 2002, ch 109, § 5; SL 2006, ch 120, § 1.
